IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF APRIL
TWO THOUSAND AND SEVEN

PRESENT
THE HON'BLE SRI JUSTICE BILAL NAZKI
and
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.7198 of 2007

Between:

M/s.Sri Venkateswara Co-operative Sugar Factory Limited, No.S.390, Gajulamandyam, Chittoor District.

..... PETITIONER

AND

1.Commercial Tax Officer-II, Tirupathi, and 2 others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE BILAL NAZKI
and
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.7198 of 2007

ORDER: ***(Per Hon'ble Sri Justice Bilal Nazki,)***

During pendency of the first appeal before the second respondent-Appellate Deputy Commissioner, the petitioner moved an application for stay before the third respondent-Additional Commissioner, who

granted stay subject to payment of 50% of the disputed tax. Now, the petitioner has lost the first appeal and filed another appeal before the Tribunal. He also filed a fresh application for grant of stay before the third respondent-Additional Commissioner, who has dismissed the said application. Hence, this Writ Petition.

Heard the learned Counsel for the parties and with their consent, the Writ Petition is disposed of at this stage.

Since the petitioner has already deposited 50% of the disputed tax during pendency of his first appeal, we feel that insistence of payment of the rest of the disputed tax during pendency of the second appeal before the Tribunal would not be fair.

In these circumstances, we allow the Writ Petition and direct that there shall be stay of recovery, till the appeal is disposed of by the Tribunal, as the petitioner has already deposited 50% of the disputed tax. No costs.

(Bilal Nazki, J)

10th April, 2007

(Nooty Ramamohana Rao, J)

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